

## **REMARKS**

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, the specification has been amended to describe and refer to the added Fig. 2.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

As requested by the Examiner, the present amendment adds Fig. 2 that shows several retaining elements, as described in the original specification and claimed in the original claims (claim 2).

It is respectfully submitted that claims 1-8 are in condition for allowance.

The Examiner rejected Claims 1-3 and 6 under 35 U.S.C. § 102(a) as being anticipated by Bolte, U.S. Patent No. 3,584,776 (Bolte). Claims 4-5 and 7-8 were rejected under 35 U.S.C. 103(b) as being unpatentable over Bolte in view of, respectively, Averbukh, U.S. Patent No. 5,497,555 (Averbukh) and Bade, U.S. Patent No. 3,320,860 (Bade).

It is respectfully submitted that claims 1-8 are patentable over cited references. Specifically, claim 1 recites a combustion engined setting tool including magnetic piston-retaining means for temporarily retaining the drive piston at the combustion chamber. None of the prior art, including all of the prior art of record discloses the structure of claim 1.

Considering the prior art, Bolte, as well as Bade, disclose pneumatically operated tools. None discloses a combustion chamber. Both tools are driven by compressed air. As the forces occurring during combustion of a fuel-oxidation means mixture are quite different from those occurring in the expansion chamber of a compressed air driven tool, one skilled in the art would not have found obvious to provide such magnet means in a combustion-engine setting tool. There is no suggestion in the prior art that magnetic retaining means would work in a combustion-engined setting tool. Accordingly, it is respectfully submitted that neither Bolte nor any other prior art anticipates or makes obvious the present invention, as defined by claim 1, and claim 1 is patentable over the prior art.

Claims 2-8 depend on claim 1 and are allowable as being dependent on an allowable subject matter.

## CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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I hereby certify that this corresponds is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 14, 2004.

Signature:

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**In the Drawings:**

Add Fig. 2 as per enclosed drawing of Fig. 2.